

Message Text

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TO SECSTATE WASHDC 446

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TAGS: BGEN, PFOR, PINR, NZ

SUBJECT: BRIBERY OF NEW ZEALAND OFFICIALS BY FOREIGN FIRMS

REF: STATE 258169

1. ACCORDING TO THE SECRETARY OF THE NEW ZEALAND GOVERNMENT STORES BOARD (GSB), MR. N. F. LEE, WHO IS RESPONSIBLE FOR DRAFTING LAWS AND REGULATIONS CONTROLLING ALL GNZ PURCHASING, THERE ARE NO LAWS OR REGULATIONS GOVERNING OR PROHIBITING INVOLVEMENT BY AGENTS IN SALES TO GNZ. MR. LEE INFORMED THE EMBASSY THAT IN PRACTICE IF AN AGENT/COMPANY APPROACHED A GNZ EMPLOYEE WITH THE INTENTION OF PROPOSING TO USE UNORTHODOX TACTICS TO OBTAIN GOVERNMENT BUSINESS, THIS WOULD BE REPORTED TO GSB. THE GSB WOULD NOT, REPEAT NOT, NOTIFY THE OFFENDING AGENT/COMPANY THAT IT WAS AWARE OF AN APPROACH HAVING BEEN MADE. IT WOULD PROBABLY BLACKLIST THE COMPANY AND, WHILE THE FIRM/AGENT WOULD STILL BE ABLE TO SUBMIT TENDERS, THEY WOULD NOT BE CONSIDERED AND NO FURTHER DEALINGS WITH THE AGENT/COMPANY WOULD BE ENTERED INTO.

2. LAWS GOVERNING ALL TYPES OF ILLICIT PAYMENTS TO NEW ZEALAND OFFICIALS ARE COVERED IN THE CRIMES ACT 1961, PART VI -- BRIBERY AND CORRUPTION -- SECTIONS 99 THROUGH 106.

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3. ACCORDING TO THE ACT A "BRIBE" MEANS ANY MONEY,

VALUABLE CONSIDERATION, OFFICE, OR EMPLOYMENT OF ANY
BENEFIT, WHETHER DIRECT OR INDIRECT.

4. THE NEW ZEALAND CRIMES ACT SPLITS BRIBERY OFFENSES
INTO 5 CATEGORIES, ALL OF WHICH ARE PUNISHABLE BY TERMS
OF IMPRISONMENT OF BETWEEN 3 AND 14 YEARS. THESE CATEGORIES
ARE:

(A) JUDICIAL CORRUPTION. A "JUDICIAL OFFICER" MEANS
A JUDGE OF ANY COURT, OR A MAGISTRATE, CORONER, OR
JUSTICE OF THE PEACE, OR ANY OTHER PERSON HOLDING ANY
JUDICIAL OFFICE, OR ANY PERSON WHO IS A
MEMBER OF ANY TRIBUNAL AUTHORIZED BY LAW TO TAKE
EVIDENCE ON OATH.

(B) CORRUPTION AND BRIBERY OF A MINISTER OF THE CROWN
OR MEMBER OF THE EXECUTIVE COUNCIL. THERE IS A CONDITION
ATTACHED TO THIS SECTION WHICH STATES "NO ONE SHALL BE
PROSECUTED FOR AN OFFENSE AGAINST THIS SECTION
WITHOUT THE LEAVE OF A JUDGE OF THE SUPREME COURT.
NOTICE OF THE INTENTION TO APPLY FOR SUCH LEAVE
SHALL BE GIVEN TO THE PERSON WHOM IT IS INTENDED
TO PROSECUTE, AND HE SHALL HAVE AN OPPORTUNITY OF
BEING HEARD AGAINST THE APPLICATION.

(C) CORRUPTION AND BRIBERY OF A MEMBER OF PARLIAMENT.
THE SAME CONDITION AS IN (B) ABOVE IS APPLICABLE TO
THIS SECTION ALSO.

(D) CORRUPTION AND BRIBERY OF A LAW ENFORCEMENT OFFICER.
A "LAW ENFORCEMENT OFFICER" MEANS ANY CONSTABLE, OR
ANY PERSON EMPLOYED IN THE DETECTION OR PROSECUTION OR
PUNISHMENT OF OFFENDERS.

(E) CORRUPTION AND BRIBERY OF AN OFFICIAL. AN
"OFFICIAL" MEANS ANY PERSON IN THE SERVICE OF HER
MAJESTY IN RIGHT OF NEW ZEALAND (WHETHER THAT SERVICE
IS HONORARY OR NOT, AND WHETHER IT IS WITHIN OR OUTSIDE
NEW ZEALAND), OR ANY MEMBER OF EMPLOYEE OF ANY LOCAL
AUTHORITY OR PUBLIC BODY, OR ANY PERSON EMPLOYED IN
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THE EDUCATION SERVICE WITHIN THE MEANING OF
THE SUPERANNUATION ACT 1956.

5. SECTION 106 OF THE CRIMES ACT STATES THAT NO ONE SHALL
BE PROSECUTED FOR AN OFFENSE AGAINST ANY OF THE PROVISIONS OF
SECTIONS (A), (D) AND (E) ABOVE WITHOUT THE LEAVE OF THE
ATTORNEY-GENERAL, WHO BEFORE GIVING LEAVE MAY MAKE SUCH
INQUIRIES AS HE THINKS FIT. IT ALSO STATES THAT NO JUDGE

WHO HOLDS HIS OFFICE SUBJECT TO A POWER OF REMOVEAL BY
HER MAJESTY ON AN ADDRESS OF THE HOUSE OF REPRESENTATIVES
SHALL BE PROSECUTED FOR ANY SUCH OFFENSE EXCEPT BY THE
ATTORNEY-GENERAL IN PURSUANCE OF A RESOLUTION OF THAT
HOUSE.

6. A COPY OF THE CRIMES ACT 1961 AND ITS FOUR AMENDMENTS
BEING FORWARDED NOVEMBER 13, 1975.
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